

The opinion in support of the decision being
entered today is not binding precedent of the Board.

Paper 17

Filed by: Trial Section Merits Panel
Box Interference
Washington, D.C. 20231
Tel: 703-308-9797
Fax: 703-305-0942

Filed: May 2, 2002

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

IZUMU SAITO, YUMI KANEGAE
and MICHIO NAKAI

MAILED

Junior Party,
Patent 5,700,470

MAY 2 - 2002

v.

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

QING WANG, MITCHELL H. FINER
and XIAO-CHI JIA

Senior Party
Application 08/333,680

Patent Interference No. 104,755 (CAS)

Before: SCHAFFER, TORCZON and SPIEGEL, Administrative Patent Judges.

SPIEGEL, Administrative Patent Judge.

JUDGMENT PURSUANT TO 37 CFR § 1.662(a)

"Pursuant to 37 C.F.R. § 1.662(a), the party Saito hereby abandons the contest
as to Count 1 and claims 1-6 corresponding thereto" (Paper 15). Therefore, it is

ORDERED that judgment on priority as to Count 1 (Paper 1, p. 5), the sole count

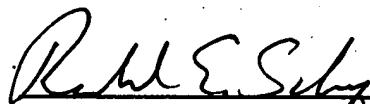
in the interference, is awarded against junior party IZUMU SAITO, YUMI KANEKAE and MICHIO NAKAI;

FURTHER ORDERED that junior party IZUMU SAITO, YUMI KANEKAE and MICHIO NAKAI is not entitled to a patent containing claims 1-6 (corresponding to Count 1) of Saito U.S. Patent 5,700,470, issued December 23, 1997, based on application 08/615,048, filed March 12, 1996;

FURTHER ORDERED that a copy of this paper shall be made of record in files of U.S. Patent 5,700,470 and U.S. application 08/333,680;

FURTHER ORDERED that if there is a settlement agreement which has not been filed, attention is directed to 35 U.S.C. § 135(c) and 37 CFR § 1.661; and

FURTHER ORDERED that the telephone conference call scheduled for May 2, 2002 is cancelled.


RICHARD E. SCHAFER
Administrative Patent Judge


RICHARD TORCZON
Administrative Patent Judge

)
BOARD OF PATENT
APPEALS AND
INTERFERENCES


CAROL A. SPIEGEL
Administrative Patent Judge

cc: (via Fax and Federal Express)

Saito
(real party in interest
SUMITOMO PHARMACEUTICALS COMPANY LIMITED):

J. Frank Osha, Esq.
John T. Callahan, Esq.
SUGHRUE MION, PLLC
2100 Pennsylvania Ave., N.W.
Suite 800
Washington, DC 20037-3202
Tel: 202-293-7060
Fax: 202-293-7860
E-mail: fosha@sughrue.com
jcallahan@sughrue.com

Wang
(real party in interest
CELL GENESYS, INC.):

Steven B. Kelber, Esq.
PIPER MARBURY RUDNICK & WOLFE LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2430
Tel: 202-861-3900
Fax: 202-223-2085
E-mail: steven.kelber@piperrudnick.com

Linda R. Judge, Esq.
CELL GENESYS, INC.
342 Lakeside Drive
Foster City, CA 94404
Tel: 650-425-4650
Fax: 650-349-7392
E-mail: linda.judge@cellgenesys.com